IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.8 OF 2005
IN
ARBITRATION PETITION NO.413 OF 2004

Gorai Om Sai Co-operative
Housing Society Ltd. ..Appellants

Vs.

Jaywant Narayan Bhoir ..Respondents.

Mr.Rahul Rao i/b.Mr.M.J.Shetty, Advocate for the Appellants.

Mr.M.U.Pandey, Advocate for the Respondents.

CORAM: A.P.SHAH AND
S.J.VAZIFDAR, JJ.

DATED: 17TH JANUARY, 2005

P.C. :

The Appellants/Petitioners had filed the above Petition under section 34 of the Arbitration and Conciliation Act, 1996 for setting aside an award dated 21.4.2004 passed by the learned arbitrator. The learned Single Judge, in our opinion, rightly dismissed the Petition.

2. The Appellants invited tenders for construction of a building consisting of twenty four flats. An agreement dated 15.11.1998 was executed between the

managing committee of the Appellants and the Respondents. A fresh agreement dated 1.12.1995 was executed between the Respondents and the managing committee of the Appellants. In view of the CRZ Regulations, the construction was delayed for sometime.

3. The Appellant's contention was that the agreement has expired by afflux of time. It was also contended that on 6.4.2000 the term of the managing committee which had executed the agreement on behalf of the Appellants had expired but, as no election had taken place, the managing committee continued to run the affairs of the Appellant's society. On 7.4.2000 a supplementary agreement was executed between the Managing Committee and the Respondents for construction of the building at an enhanced rate of Rs.650/- per square foot.

4. It is important to note that from time to time running bills were forwarded by the Respondents to the Appellants. It is also important to note that there appeared to have been disputes between the members of the society inter-se resulting in complaints before the authorities under the Maharashtra Co-operative Societies Act, 1960.

Disputes arose between the new committee/board of administrators and the Respondents leading the Respondents invoking the arbitration clause under the agreement.

5. The learned arbitrators by a detailed reasoned award, considered all the arguments and contentions of both the parties. Before us, it is not even suggested that the learned Arbitrator did not take into consideration any material aspect of the matter.

6. The main point urged before us was that there were disputes between the members of the society inter-se and that the managing committee did not, in fact, have the authority to enter into the agreement.

7. The learned arbitrator on an appreciation of the evidence came to the conclusion that the agreements were entered into by the office bearers of the society under the supervision of an architect with due approval of the rates of construction and other material aspects. The arbitrator also held that the minutes of the Managing Committee Meetings and General Body Meetings clearly showed that the

agreements had even been acted upon and the Respondents had in fact made part-payments thereunder. It was therefore concluded that the doctrine of indoor management was applicable and, even if there was no specific resolution of the general body of the society, it would make no difference as the Respondents would be entitled to assume that all the office bearers of the society were duly authorised to enter into the agreements.

8. It was contended before the learned arbitrator that there was collusion between the Respondents and the members of the erstwhile managing committee.

9. This case however was rejected on an appreciation of facts for which too the arbitrator has given reasons. It cannot possibly be contended that the view taken by the arbitrator is absurd or not a possible view. It certainly was a possible view. In fact, considering the arguments before us, it appears clear that the view taken by the arbitrator was correct.

10. It was also contended that, in fact, the quantum of piling work done, did not justify the amounts claimed by the Respondents. We are afraid

this is a pure question of fact. It was for the arbitrator to decide the same which he did. It is not permissible for us to reappreciate the evidence as to the quantum of construction carried out on site.

11. There is nothing to suggest that the conclusion reached by the arbitrator was unsustainable warranting any interference from this Court.

In the circumstances, the Appeal is dismissed.